

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Darian Martin,  
Plaintiff

v.

Aargon Agency, Inc., et al,  
Defendants

2:15-cv-02362-JAD-PAL

**Order Directing Plaintiff to File a  
Proper Complaint and Denying  
Pending Motions**

[ECF 1, 7]

Darian Martin commenced this action on December 9, 2015, by filing a “Motion for Summary Judgment.”<sup>1</sup> In doing so, Martin has skipped critical steps in the process of this federal lawsuit.

Civil actions in federal court are governed by, and must be prosecuted in compliance with, the Federal Rules of Civil Procedure (“FRCP”). FRCP 2 states, “There is one form of action—the civil action.” And FRCP 3 explains, “A civil action is commenced **by filing a complaint** with the court.”<sup>2</sup> The Advisory Committee notes accompanying Rule 3 explain that “the first step in an action is the filing of the complaint.” Rules 8 and 10 explain what a complaint must contain.

Without a complaint, Martin has pled no claim for relief. And without a claim for relief, there is nothing for this court to adjudicate by summary judgment, so Martin’s motion for summary judgment is premature.<sup>3</sup>

Even if I were liberally to construe Martin’s motion for summary judgment as his complaint, it does not comply with FRCP 8. It lacks “a short and plain statement of the grounds

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<sup>1</sup> ECF 1.

<sup>2</sup> Fed. R. Civ. P. 3 (emphasis added).

<sup>3</sup> Subsection (a) of FRCP 56, the summary-judgment rule, states that “A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought.” Without a claim or defense, there is simply nothing for the plaintiff to move for summary judgment on.

1 for the court's jurisdiction" and "a short and plain statement of the claim showing that the  
 2 pleader is entitled to relief," both of which are required by Rule 8. Local rule 8-1 states that "The  
 3 first allegation of any complaint. . . shall state the statutory or other basis of claimed federal  
 4 jurisdiction and the facts in support thereof." That requirement is also not satisfied by Martin's  
 5 motion.

6 Accordingly, and with good cause appearing,

7 IT IS HEREBY ORDERED that **Martin has until January 15, 2016, to file a proper**  
 8 **complaint, which he must then serve in compliance with the rules of this court. If Martin**  
 9 **does not file a complaint by January 15, 2016, this case will be dismissed without further**  
 10 **prior notice.** Martin is cautioned that, despite the fact that he is representing himself, he must  
 11 still comply with the rules and procedures of this court<sup>4</sup> and should therefore familiarize himself  
 12 with the Federal Rules of Civil Procedure and the Local Rules of Practice for the United States  
 13 District Court for the District of Nevada. Martin is further advised that each allegation of a  
 14 complaint "must be simple, concise, and direct."<sup>5</sup> "A party must state [his] claims or defenses in  
 15 numbered paragraphs, each limited as far as practicable to a single set of circumstances."<sup>6</sup> And  
 16 each claim based on a separate legal theory "must be stated in a separate count."<sup>7</sup> Martin is also  
 17 cautioned that declaratory and injunctive relief are merely remedies that may be awarded for  
 18 independently viable legal claims; they are not, themselves, viable causes of action or claims for  
 19 relief.

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21 <sup>4</sup> *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987) ("Pro se litigants must follow the same rules  
 22 of procedure that govern other litigants."); *see also Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir.  
 23 1995) ("Although we construe pleadings liberally in their favor, pro se litigants are bound by the  
 24 rules of procedure."); *Jacobsen v. Filler*, 790 F.2d 1362, 1364 (9th Cir. 1986) ("[P]ro se litigants  
 in the ordinary civil case should not be treated more favorably than parties with attorneys of  
 record.").

25 <sup>5</sup> Fed. R. Civ. P. 8(d)(1).

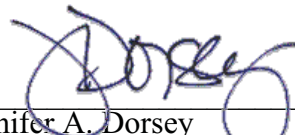
26 <sup>6</sup> Fed. R. Civ. P. 10(b).

27 <sup>7</sup> *Id.*

1 IT IS FURTHER ORDERED that Martin's Motion for Summary Judgment [ECF 1] is  
2 **DENIED** as premature and without prejudice to Martin's ability to file a motion for summary  
3 judgment at an appropriate time in the future.

4 IT IS FURTHER ORDERED that Defendant Central Credit Services, Inc.'s Motion for  
5 an Extension of Time to respond to Martin's motion for summary judgment [ECF 7] is **DENIED**  
6 as moot.

7 Dated this 30th day of December, 2015

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Jennifer A. Dorsey  
United States District Judge